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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,203	03/03/2004	Bernarr C. Schaeffer		4198
7590	02/18/2005		EXAMINER	
Joseph B. Taphorn 8 SENIC DRIVE; HAGAN FARMS POUGHKEEPSIE, NY 12603-5521			FASTOVSKY, LEONID M	
			ART UNIT	PAPER NUMBER
			3742	
DATE MAILED: 02/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/792,203	SCHAEFFER ET AL.	
	Examiner	Art Unit	
	Leonid M Fastovsky	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 December 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 7-15 and 18-21 is/are rejected.
 7) Claim(s) 16-18 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 03 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. Receipt of the Remarks to the Office Action mailed 9/2/04 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Hirota.

Hirota teaches an infrared source 3 (Fig. 5) comprising of a base adapted to be heated to uncomfortable to the touch at the temperature of 90 degree C (Abstract), the same as disclosed by applicant of 200 degree F that is equal roughly to 80 degree C, having a floor panel 1 (See attached Japanese translation) with fins and closely spaced protrusions of inherently low-heat –conductance material which projects away from the base 3 and inherently present temperatures comfortable to the touch even though the base can be at uncomfortable temperatures.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hirota.

Hirota discloses substantially the claimed invention, but is silent about the width that separate fins from protrusions. It would have been obvious to one having ordinary skill in the art to modify Hirota's invention if necessary to make the width between the protrusions and fins less than a finger width in order to prevent the body of the person from being burned.

6. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (6,272,697) in view of Perlman.

Park discloses infrared heater comprised of two sets of parallel electrically resistive 70, the corresponding bars being juxtaposed (Fig. 2) and electric conductors 72 interconnecting corresponding ends of the bars. However Park does not teach that current flows in opposite directions. Perlman discloses electric heating elements that can be used in heating panels where the device is brought into proximity with the human body and current flows in opposite directions (col. 1, lines 44-45). It would have been obvious to one having ordinary skill in the art to modify Park's to include the electric heating elements of Perlman because his elements are powered by alternating current that produces little or no external electromagnetic fields (col. 1, lines 44-45) that occurs when applying 180 degrees out of phase electrical current.

7. Claims 11-15 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Perlman and further in view of Hirota.

Park in view of Perlman discloses substantially the claimed invention including a sauna 10 for causing a user to sweat, but does not disclose fins and protrusions. Hirota

discloses an infrared heater 3 having a floor panel 1 with fins and protrusions spaced apart. It would have been obvious to one having ordinary skill in the art to modify the invention of Park in view of Perlman to include a floor panel with fins and protrusions spaced apart as taught by Hirota in order not to burn skin of the human body when in touch with the floor panel, and also to use a method of sweating a person.

Allowable Subject Matter

8. Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's arguments with respect to claims 7-15 and 18-21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leonid M Fastovsky
Examiner
Art Unit 3742

lmf



ROBIN O. EVANS
PRIMARY EXAMINER

